

REMARKS

Claims 1-18 were examined in the most recent office action, dated March 6, 2006. Claims 1-18 stand rejected as allegedly anticipated or obvious or both over various prior art references. Claims 19-22 were withdrawn, and have been canceled herein. Based on the amendments made herein, applicants respectfully request withdrawal of the rejections and allowance of all claims.

Claims 1 and 23-30 are Allowable.

Claim 1 stands rejected as anticipated by Deskiewicz, U.S. Patent No. 4,844,264 and as separately anticipated by McCarthy, U.S. Design Patent No. 177,186. Claim 1 stands further rejected as obvious over Sharber, U.S. Patent No. 4,444,319 in view of Birnbaum, U.S. Patent No. 5,657,880, and as separately obvious over Lecal, French Patent No. 2,277,684 in view of Birnbaum. Claim 1, as amended, recites a first sidewall extending upwardly from a first edge, a second sidewall extending upwardly from a second edge, wherein the base is open on edges disposed opposite of the first and second edges, and wherein the first sidewall mirrors the second sidewall.

Deskiewicz discloses a display tray with sidewalls extending up from all four edges, and fails to disclose that base is open on edges opposite the sidewalls. Likewise, McCarthy discloses a letter tray that has sidewalls extending upwardly from three edges. While the base of McCarthy is open on the front edge opposite the back sidewall, the base is not open opposite any other wall. Accordingly, the rejections for anticipation must be withdrawn.

The references further fail to suggest the open sides. Deskiewicz specifically teaches that a portion of the sidewalls should be raised "to provide enclosure and protection" for the

documents stored therein. Col. 5, lines 11-14. McCarthy is simply claiming a design, and there can be no suggestion in McCarthy to alter his claimed design.

Claim 1 is further non-obvious over Sharber in view of Birnbaum, because both references fail to disclose a base that is open on two edges opposite two sidewalls. Sharber discloses a bottom wall 14 with a front wall 11, a back wall 12, and sidewalls 13 encircling the base. Birnbaum discloses a base 88 with sidewalls 86, 81, 90, and 94 that also encircle the base.

Finally, claim 1 is non-obvious over Lecal in view of Birnbaum. Although Lecal discloses a base that is open on two edges opposite two sidewalls, Lecal fails to disclose that the first sidewall mirrors the second sidewall. Back wall 2 is shown as rectangular, while sidewall 4 is triangular. There is further no suggestion in Lecal for the sidewalls to mirror one another. In fact, the only suggestion is that sidewall 4 be triangular to come to a point at the front edge of the base plate 1.

The claimed design is unique and more useful than prior art organizers for several reasons. Because the base is open on two edges opposite two sidewalls, the user can insert paper from two different directions toward the sidewalls. The user can stack and collate files, with a first file stacked in a first direction, a second file stacked on top of the first but rotated 90 degrees relative to the first, a third file stacked and oriented similar to the first file, and so forth.

Further, by having the first sidewall mirror the second sidewall, the organizer can be placed in on either corner of the desk, and will produce the same functionality and visual effect in supporting the stacked papers. For example, if the user places the device on the right corner of his desktop, the first sidewall can be a back wall and the second sidewall can be the right wall. The user can then place the device on the left corner, rotate the device 90°, and the

first sidewall is the left wall, and the second sidewall is the back wall. The device functions and appears exactly the same. Because none of the cited references recognize this functionality or the claimed structure by which such functionality is achieved, none suggests the claimed solution. Accordingly, claim 1 is allowable over the art of record.

Claims 2, 4-8, 10, 11, and 13 are Allowable.

Claim 2 stands rejected on the same grounds as claim 1. Claim 2, as amended, recites, in part, that the base includes a first panel, a second panel, and a third panel, the second panel disposed between the first and third panels, and the first panel and the third panel each sloping to meet the second panel, the first panel mirroring the third panel. None of the cited references disclose this claimed element.

All of Deskiewicz, McCarthy, Birnbaum, and Lecal disclose a flat base. In other words, none discloses a base with three panels wherein two of the panels slope to meet the third. Further, even if panel 14b of Sharber is considered the first panel, panel 14a is considered the second panel, and the elevated portion of base 14 is considered the third panel, the first and third panels of Sharber do not mirror each other. Accordingly, claim 2 is allowable over the art of record. Dependent claims 4-8, 10, 11 and 13 are allowable for at least the same reasons.

Claims 31 and 32 are Allowable.

Independent claim 31 recites, in part, subject matter common to claim 1 as well as claim 2. Claim 31 also recites that the device is symmetrical about a line through the second panel of the base. None of the cited references disclose or suggest the claimed symmetry. Accordingly, claims 31 and 32 are allowable.

CONCLUSION

In view of the foregoing remarks, it is submitted that the claims as now appearing in this application are in good and proper form for allowance. A favorable action on the part of the examiner is respectfully solicited. If, in the opinion of the examiner a telephone conference would expedite prosecution of the subject application, the examiner is invited to call the undersigned attorney.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 13-2855, under Order No. 29618/38938/US.

Dated: July 6, 2006

Respectfully submitted,

By 

Russell C. Petersen

Registration No.: 53,457

MARSHALL, GERSTEIN & BORUN

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant